

**CHAPTER 89-04-05**  
**DIVERSION AND CONVEYANCE OF OVERLAND FLOW AWAY FROM**  
**DISTURBED AREAS**

Section

89-04-05-01

General

89-04-05-02

Construction and Design

**89-04-05-01. General.** Overland flow from undisturbed areas may, if required or approved by the state engineer, be diverted away from disturbed areas by means of temporary or permanent diversion structures. The following requirements shall be met:

1. Temporary diversion structures are those used during mining and reclamation. When no longer needed, these structures shall be removed and the area reclaimed. Temporary diversion structures shall be constructed to safely pass the peak runoff from a precipitation event with a ten-year recurrence interval, or a larger event as specified by the state engineer.
2. Permanent diversion structures are those remaining after mining and reclamation and approved for retention by the state engineer and other appropriate state and federal agencies. To protect fills and property and to avoid danger to public health and safety, permanent diversion structures shall be constructed to safely pass the peak runoff from a precipitation event with a hundred-year recurrence interval, or a larger event as specified by the commission. Permanent diversion structures shall be constructed with gently sloping banks that are stabilized by vegetation. Asphalt, concrete, or other similar linings shall not be used unless specifically required to prevent seepage or to provide stability and are approved by the state engineer.

**General Authority:** NDCC 28-32-02, 61-02-11, 61-03-13

**Law Implemented:** NDCC 61-02-14

**89-04-05-02. Construction and design.** Diversions shall be designed, constructed, and maintained using the best technology currently available. Appropriate sediment control measures for these diversions shall include, but not be limited to, maintenances of appropriate gradients, channel lining, revegetation, roughness structures, and detention basins.

**General Authority:** NDCC 28-32-02, 61-02-11, 61-03-13

**Law Implemented:** NDCC 61-02-14